

### **Amendments to the Claims**

This listing of claims replaces all prior versions and listings of claims in the application:

1. **(Currently Amended)** A DNA construct, ~~wherein a mammalian~~ comprising a mouse  $\beta$ -actin promoter ~~[[is]]~~ operably linked to ~~[[an]]~~ a Cytomegalovirus (CMV) enhancer.
2. **(Canceled)**
3. **(Withdrawn)** The DNA construct of claim 1, wherein the enhancer is Woodchuck Hepatitis Virus Posttranscriptional Regulatory Element (WPRE).
4. **(Canceled)**
5. **(Currently Amended)** The DNA construct of claim ~~[[2]]~~1, wherein the CMV enhancer comprises the nucleotide sequence shown in SEQ ID NO: 4 and the ~~mammalian~~ mouse  $\beta$ -actin promoter comprises the nucleotide sequence shown in SEQ ID NO: 2.
6. **(Withdrawn)** The DNA construct of claim 3, wherein the Woodchuck Hepatitis Virus Posttranscriptional Regulatory Element (WPRE) comprises the nucleotide sequence shown in SEQ ID NO: 3 and the mammalian  $\beta$ -actin promoter comprises the nucleotide sequence shown in SEQ ID NO: 2.
7. **(Previously Presented)** A vector comprising the DNA construct of claim 1.
8. **(Currently Amended)** The vector of claim 7, comprising a ~~DNA having a~~ desired DNA operably linked downstream of the ~~mammalian~~ mouse  $\beta$ -actin promoter.
9. **(Previously Presented)** The vector of claim 7, comprising and capable of expressing a DNA encoding a transactivator.

10. **(Original)** The vector of claim 9, wherein the transactivator is an oncogene product.
11. **(Original)** The vector of claim 10, wherein the oncogene product is Ras.
12. **(Previously Presented)** The vector of claim 8, wherein the desired DNA encodes a desired protein.
13. **(Previously Presented)** A cell comprising the vector of claim 8.
14. **(Currently Amended)** A cell comprising the vector of claim 8, wherein ~~the oncogene is activated~~ said cell comprises an activated oncogene.
15. **(Currently Amended)** The cell of claim 14, ~~into which the vector comprising the gene encoding the transactivator is introduced~~ wherein the activated oncogene is on a vector in the cell.
16. **(Original)** The cell of claim 14, which is a transformed cell.
17. **(Previously Presented)** The cell of claim 13, which is a mammalian cell.
18. **(Original)** The cell of claim 17, which is a rodent cell.
- 19-20. **(Canceled)**
21. **(Withdrawn)** A non-human transgenic animal into which the vector according to claim 8 has been introduced.
22. **(Currently Amended)** A totipotent cell ~~into which~~ comprising the vector of claim 8 ~~is introduced.~~

23. **(Withdrawn; Currently Amended)** A method for producing a desired protein, ~~which comprises the method comprising~~ culturing a cell comprising the vector of claim 12[[:]] and harvesting the expressed protein from the cultured cell or its medium.
24. **(Withdrawn)** The method of claim 23, which comprises adding a transactivator to the medium.
25. **(Withdrawn)** A method for expressing a desired DNA in a host cell, which comprises introducing the vector of claim 8 into the host cell derived from the same animal order as that from which the  $\beta$ -actin promoter in the vector is derived.
26. **(Withdrawn)** The method of claim 25, wherein the host cell is derived from the same animal species as that from which the  $\beta$ -actin promoter in the vector is derived.
27. **(Withdrawn)** A method for expressing a desired DNA in a host cell, which comprises introducing the vector of claim 8 and a vector comprising and capable of expressing a DNA encoding a transactivator into a host cell which is derived from the same species as that from which the  $\beta$ -actin promoter in the vector of claim 8 is derived.
28. **(Withdrawn)** The method of claim 25, wherein the host cell is a mammalian cell.
29. **(Withdrawn)** The method of claim 25, wherein the host cell is a rodent cell.
30. **(Withdrawn)** A method for increasing the expression level of a desired DNA in a host cell, which comprises inserting upstream of the desired DNA a  $\beta$ -actin promoter derived from the same animal order as that from which the host cell is derived.
31. **(Withdrawn)** The method of claim 30, wherein the  $\beta$ -actin promoter is derived from the same animal species as that from which the host cell is derived.

32. **(Withdrawn)** The method of claim 30, which further comprises inserting an enhancer.
33. **(Withdrawn)** The method of claim 32, wherein the enhancer is Woodchuck Hepatitis Virus Posttranscriptional Regulatory Element (WPRE).
34. **(Withdrawn)** The method of claim 32, wherein the enhancer is a CMV enhancer.
35. **(Withdrawn)** The method of claim 30, which comprises inserting a gene encoding a transactivator gene.
36. **(Withdrawn)** The method of claim 30, wherein the host cell is a mammalian cell.
37. **(Withdrawn)** The method of claim 30, wherein the host cell is a rodent cell.
38. **(Withdrawn)** The method of claim 27, wherein the host cell is a mammalian cell.
39. **(Withdrawn)** The method of claim 27, wherein the host cell is a rodent cell.
40. **(New)** A DNA construct consisting of (a) a mouse  $\beta$ -actin promoter, wherein the sequence of the promoter consists of the nucleotide sequence of SEQ ID NO: 2; and (b) optionally additional sequence at the 5' and/or 3' end of the promoter, wherein the additional sequence is not mouse  $\beta$ -actin genomic sequence.
41. **(New)** The DNA construct of claim 40, wherein the additional sequence comprises a CMV enhancer.
42. **(New)** The DNA construct of claim 41, wherein the CMV enhancer comprises the nucleotide sequence shown in SEQ ID NO: 4.
43. **(New)** A vector for expressing a desired DNA, the vector comprising:

- (a) a mouse  $\beta$ -actin promoter, wherein the sequence of the promoter consists of the nucleotide sequence of SEQ ID NO: 2;
- (b) at the 3' end of the promoter, the desired DNA; and
- (c) at the 5' end of the promoter, an additional nucleotide sequence that is not mouse  $\beta$ -actin genomic sequence.

44. **(New)** The vector of claim 43, wherein the additional nucleotide sequence of (c) comprises a CMV enhancer.

45. **(New)** The vector of claim 44, wherein the CMV enhancer comprises the nucleotide sequence shown in SEQ ID NO: 4.